

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

MERCK & CO., INC.,

Plaintiff,

v.

TEVA PHARMACEUTICALS USA, INC.,

Defendant.

C.A. No. 06-310-GMS

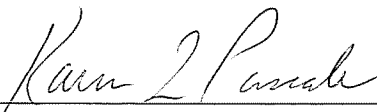
**DEFENDANT TEVA PHARMACEUTICALS USA, INC.'S  
MOTION UNDER FED. R. CIV. P. 11(b) FOR SANCTIONS  
AGAINST COUNSEL FOR PLAINTIFF MERCK & CO., INC.**

Teva Pharmaceuticals USA, Inc. ("Teva USA") brings this motion under Fed. R. Civ. P. 11(b) for sanctions against counsel for plaintiff Merck & Co., Inc. ("Merck"), for filing a baseless complaint in this action against Teva USA for an improper purpose. Merck's complaint seeks to reopen the judgment of the Federal Circuit Court of Appeals in *Merck & Co. v. Teva Pharmaceuticals USA, Inc.*, 395 F.3d 1395 (Fed. Cir. 2005) (Complaint (D.I. 1), Ex. I), a patent infringement case that Merck lost. Merck and its lawyers know that the stated basis for the complaint – that Teva USA's counsel committed a fraud on the court in that case – is false, and Merck has brought the complaint solely to delay a related case, *Merck & Co. v. Teva Pharmaceuticals USA, Inc.*, Civil Action No. 04-939 (GMS), which is pending in this Court.

The grounds for this motion are more fully set forth in Teva USA's Opening Brief, in support of its motion, submitted contemporaneously herewith

YOUNG CONAWAY STARGATT & TAYLOR, LLP

June 5, 2006

  
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**CERTIFICATE OF SERVICE**

I, Karen L. Pascale, Esquire, hereby certify that on June 5, 2006, I caused to be served a true and correct copy of the foregoing *Defendant Teva Pharmaceuticals USA, Inc.'s Motion Under Fed. R. Civ. P. 11(b) for Sanctions Against Counsel for Plaintiff Merck & Co., Inc.* on the following counsel of record:

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